



## ORDER REVOKING LICENSE

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4. On September 29, 2008, a Washington consumer handed Mr. Wyche a check in the amount of \$45,000 for an American National Insurance Company (hereinafter "ANICO") annuity. The consumer wrote on the check's payee line that the check was payable to "ANICO." Mr. Wyche handed the check to Ms. Gardner, who photocopied the check and also completed a "conditional receipt" as ANICO's agent, acknowledging receipt of the check amount as payment for the annuity on behalf of ANICO. Ms. Gardner did not send the check to ANICO and did not deposit the check into any separate premium trust account. Instead, Ms. Gardner gave the check to Mr. Wyche. Without the consumer's authorization, Mr. Wyche altered the payee line to add "GW Enterprises LLC," then he deposited this check into his GWE account held with a Washington credit union. Mr. Wyche also did not provide the funds to ANICO.
5. On January 30, 2009, worried that ANICO had not yet issued any statements about the annuity, the consumer called Mr. Wyche's business telephone numbers. The consumer found those numbers had been disconnected. The consumer contacted ANICO and learned that no payment for the annuity had ever been received. The consumer drove to Mr. Wyche's office address and found the door blinds closed and the office empty. The consumer eventually located Mr. Wyche at his residence. The consumer also observed Ms. Gardner working within an office inside the residence. The consumer confronted Mr. Wyche about the check and the annuity. Mr. Wyche said all records were in storage and that he would need to get back to the consumer. The consumer contacted Mr. Wyche's Washington credit union holding the GW Enterprises LLC account. The credit union confirmed Mr. Wyche definitely deposited the check. The credit union advised the consumer to contact the police, which the consumer did.
6. On February 6, 2009, the credit union's Loss Control Specialist, Kim Thompson, stated that she believes Mr. Wyche used the \$45,000 he deposited "for personal use."
7. On April 20, 2009, police went to Mr. Wyche's residence in connection with the aforementioned 2008 transaction. The police arrested and jailed Mr. Wyche. The Clark County Washington Prosecuting Attorney later filed in the Clark County Superior Court a six-count Information, alleging Mr. Wyche is guilty of the crimes of first degree theft (three counts), forgery, money laundering, and acting as an agent without a license. According to testimony of the arresting officer, Tera Gardner was again observed to be present at the Wyche residence at the time of the arrest and appeared to be working there.

### **C. VIOLATIONS OF THE INSURANCE CODE.**

8. Based on the foregoing, Tera D. Gardner has violated various provisions of the Washington State Insurance Code, Title 48 RCW, including the following:

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- a. Ms. Gardner violated RCW 48.01.030 by failing to preserve inviolate the integrity of insurance.
- b. Ms. Gardner violated RCW 48.17.480(2) by failing to promptly account for and failing to promptly pay to the insurer entitled thereto premium funds which Ms. Gardner received in her fiduciary capacity.
- c. Ms. Gardner violated RCW 48.17.480(3) by failing to promptly account for and failing to promptly pay to the insurer entitled thereto premium funds which Ms. Gardner received in her fiduciary capacity.
- d. Ms. Gardner violated RCW 48.17.600(1) by failing to account for and maintain in an account, separate from all other business and personal funds, premium funds Ms. Gardner received in her fiduciary capacity.
- e. Ms. Gardner violated RCW 48.17.490(2) and (3) by sharing or allowing commissions or other compensation with a person not licensed for the procurement of applications for, or the placement of, kinds of insurance for which he himself was not then licensed to procure or place.
- f. Ms. Gardner violated RCW 48.30.190(1) by willfully collecting a sum as premium for insurance, which insurance was not then provided and was not in due course to be provided by an insurance policy issued by an insurer as authorized by the Washington State Insurance Code, Title 48 RCW.
- g. Ms. Gardner violated RCW 48.17.530(1)(e) by intentionally misrepresenting the terms of an actual or proposed application for insurance.
- h. Ms. Gardner violated RCW 48.17.530(1)(h) by showing herself to be, and is also deemed by the Insurance Commissioner to be, incompetent, untrustworthy, and a source of injury and loss to the public.
- i. Ms. Gardner violated RCW 48.17.530(1)(b) by willfully violating or knowingly participating in the violation of the aforementioned provisions of the Washington State Insurance Code, Title 48 RCW, including by facilitating the transaction of insurance by an unlicensed agent, Mr. Wyche.

Accordingly, your license is revoked pursuant to RCW 48.17.530.

**IT IS FURTHER ORDERED** that you immediately return your license certificate to the Commissioner on or before the effective date of the revocation of your license, as required by RCW 48.17.530(4).

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**NOTICE CONCERNING YOUR RIGHT TO A HEARING.** Please note that a detailed summary of your right to contest this Order is attached. Briefly, if you are aggrieved by this Order, RCW 48.04.010 permits you to demand a hearing. Pursuant to that statute, and others, you must demand a hearing, in writing, within 90 days after the date of this Order, which is the day it was mailed to you, or you will waive your right to a hearing. Your demand for a hearing must specifically state the reasons why you think this Order should be changed. If your demand for a hearing is received by the Commissioner before the effective date of the revocation, then the revocation will be stayed (postponed) pending the hearing, pursuant to RCW 48.04.020. Upon receipt of your demand for hearing, you will be contacted by an assistant of the Chief Hearing Officer to schedule a teleconference with you and the Insurance Commissioner's Office to discuss the hearing and the procedures to be followed.

Please send any demand for hearing to the Insurance Commissioner, Attention John Hamje, Deputy Insurance Commissioner, Office of the Insurance Commissioner, P.O. Box 40257, Olympia, Washington 98504-0257.

ENTERED AT TUMWATER, WASHINGTON, this 5<sup>th</sup> day of June, 2009.

**MIKE KREIDLER**  
Insurance Commissioner

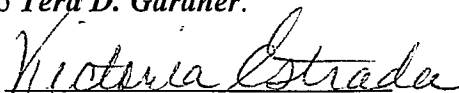
By

  
**JOHN F. HAMJE**  
Deputy Insurance Commissioner  
Consumer Protection Division

**DECLARATION OF MAILING**

I certify under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery of a true copy of this document to **Tera D. Gardner**.

Dated: June 5, 2009  
At Tumwater, Washington

  
Victoria Estrada

## **NOTICE OF YOUR RIGHT TO A HEARING**

You have the right to demand a hearing to contest this Order. During this hearing, you can present your argument that the Order should not have been entered for legal and/or factual reasons and/or to explain the circumstances surrounding the activities which are the subject of this Order. You may be represented by an attorney if you wish, although in some hearings before this agency parties do choose to represent themselves without an attorney.

Your Demand for Hearing should be sent to John F. Hamje, Deputy Insurance Commissioner, Office of the Insurance Commissioner, P.O. Box 40257, Olympia, WA 98504-0257, and must briefly state how you are harmed by this Order and why you disagree with it. You will then be notified both by telephone and in writing of the time and place of your hearing. If you have questions concerning filing a Demand for Hearing or the hearing process, please telephone the Hearings Unit, Office of the Insurance Commissioner, at 360/725-7002.

Your Demand for Hearing must be made within 90 days after the date of this Order, which is the date of mailing, or your Demand will be invalid and this Order will stand. If your Demand for Hearing is received before the effective date of this Order, the penalties contained in the Order will be stayed (postponed) until after your hearing.

It is important to know that if you demand a hearing, you will have two options for how it will be handled:

Option 1: Unless you specifically request Option 2, your hearing will be presided over by an administrative law judge from the Office of the Insurance Commissioner. Under this option, upon receipt of your Demand for Hearing, the Insurance Commissioner may refer the case to an administrative law judge. The administrative law judge is an individual who has not had any involvement with this case. The administrative law judge will hear and make the final decision in the case without any communication, input or review by the Insurance Commissioner or staff or any other individual who has knowledge of the case. This administrative law judge's final decision may uphold or reverse the Commissioner's action or may instead impose any penalties which are less than those contained in the Order.

Option 2: If you elect, your hearing will be presided over by an administrative law judge from the Office of Administrative Hearings. That administrative law judge will issue an initial or recommended decision which will then be sent to the Insurance Commissioner. The Insurance Commissioner, or his designee, will review the initial decision and make the final decision. The Insurance Commissioner's final decision in the case may uphold, reverse or modify the initial decision, thereby changing the penalty which is recommended in the initial decision. In writing the final decision, the Insurance Commissioner is not bound by the findings of facts or conclusions of law which were made in the initial decision.